IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SIXTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 1851 of 1995

Between:

General Manager, Telecom District,
Suryalok Complex, Gunfoundry,
Hyderabad .

..... PETITIONER

AND

1 The State of Andhra Pradesh, rep. by its Secretary,

Transport Rep. by its Secretary,
Transport, Roads and Buildings Department, Secretariat,
Hyderabad.
2 The Commissioner of Land Revenue, Government of A.P.,
Station Road, Nampalli, Hyderabad - 500 001
3 The Collector and District Magistrate, Hyderabad District,
Station Road, Nampalli,
Hyderabad-500001
4 The Special Deputy Collector, Land Acquisition(General)

Office of Collector,Hyderabad District, Station Road,

Nampalli, Hyderabad-500001
5 B.Vijaya Reddy
R/o.H.No.1-11-254/1, Begumpet,
Hyderabad - 16.
6 B.Anantha Reddy

R/o.H.No.1-11-254/1, Begumpet,
Hyderabad - 16.

7 G.Gopal Reddy alias Shanthanu Reddy
R/o.H.No.1-11-254/1, Begumpet,
Hyderabad-16.

8 B.Visweswara Reddy
51-B, Kulumal Estate, (OPP) Juju Post Office,
Bombay-49, Maharastra State.

9 B.Pavan Reddy
R/o.51-B, Kulumal Estate, (OPP) Julu Post

Office, Bombay –49.

10 B.Sruthi Reddy
R/o.51-B, Kulumal Estate, (OPP) Julu Post

Office, Bombay –49.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ, order of direction or any other appropriate writ particularly in the nature of writ of mandamus declaring the action of the 4th respondent in not deducting 1/3rd area of the acquired land towards development of the site by farming internal roads etc., as the Open and vacant land acquired is about Ac.2-00 leaving the structures, while determining the compensation amount to the acquired land in the award no.D/1141/90, dt.12/1/1995 as illegal arbitrary and violative of the Provisions of Land Acquisition Act. and pass such other and further orders as the Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner: MR.A.RAJASEKHARA REDDY

Counsel for the Respondent Nos.1 to 4: GP FOR REVENUE

Counsel for the Respondent Nos.5 to 10: MR.R.S.MURTHY

The Court made the following:

ORDER:

This writ petition is filed by the petitioner who is sought to be the beneficiary of the land, which was acquired from the owners in an extent of 8413 square meters under the provisions of Land Acquisition Act (for brevity 'the Act'). The petitioner is seeking to issue a writ of Mandamus declaring the action of the fourth respondent – The Special Deputy Collector, Land Acquisition, in not deducting 1/3rd area of the acquired land towards the development of a site for forming internal roads etc., as open and vacant land was acquired.

2. According to the petitioner, at his request, the State Government through the fourth respondent had acquired the above mentioned extent of property by issuing notification under Section- 4 (1) of the

Act dated 04.11.1991 and declaration under Section-6 of the Act dated 02.03.1993. The possession of the land was taken by the Land Acquisition Officer and thereafter, he passed an award fixing the value of the land in question by an award, dated 12.01.1995.

3. The grievance of the petitioner is that though it was proposed to deduct the value of 1/3rd extent of the land towards development, but the said deduction was not effected while passing the said award. Therefore, the said award passed by the Land Acquisition Officer is illegal and unsustainable.

4. The learned counsel for the petitioner contended that the compensation amount was collected from the petitioner even before the possession was delivered to the petitioner and it was, in fact, paid to some of the claimants, though there was a dispute among the claimants as the first claimant before the Land Acquisition Officer claimed that the land in question is an endowment property and he alone representing the said Endowment, is entitled to receive the compensation. While the claimants 2 to 7 before the Land Acquisition Officer claimed to be the owners as the land belongs to them as their private property. The learned counsel also contended that ultimately, if it is decided by the Civil Court that the party other than the party to whom the compensation was paid, is entitled, there may be a claim against the petitioner to pay further compensation. The learned counsel further contended that even in a reference under Section-18 of the Act, which was referred at the instance of the claimants, if any further enhancement of the compensation is made, the petitioner would suffer and therefore, sought for appropriate orders.

5. This claim of the petitioner is contested by the official respondent by filing a counter. In the counter it is stated that the property bearing D.No.1-4-175, Kavadiguda locality corresponding to T.S.No.64/2, Block:B, Ward:110 of Bholakpur village, Secunderabad Mandal, Hyderabad, was notified and acquired for the benefit of the petitioner. It is also stated that though as per the instructions issued by the

Commissioner of Land Revenue in Reference No.G2/4769/78, dated 11.08.1978, 1/3rd area was proposed to be deducted while valuing the land, but on a reference made by the Collector to the Commissioner of Land Revenue, it was clarified that in respect of smaller extent of land when they are in the nature of developed plots, deduction of 1/3rd area for valuation purpose is not correct. If the building is acquired to have a government office, then also the exclusion of 1/3rd area is not applicable. It was further clarified that the property covered under the writ petition falls within the above referred properties. Therefore, the 1/3rd area deduction is not applicable. In the counter it is also stated that the Requisitioning Department has no *locus standi* to file the writ petition as the proceedings are in accordance with the Land Acquisition Act.

6. Heard both the learned counsel and considered the material on record.

7. The dispute is whether the petitioner, who is a beneficiary and at whose requisition the land in question was acquired, can question the nature of the award when there are no mala fides, in fact, alleged and attributed to the Land Acquisition Officer who passed the award.

8. In fact, the learned counsel for the petitioner sought to contend that the land is part of the excess land declared under the provisions of the Urban Land Ceiling Act on the ground that the total land acquired is 8413 square meters. But, the said contention was advanced by the learned counsel for the petitioner, forgetting that the land in question was owned by six individuals apart from the fact that the land in question also comprises of the structures such as building, out-houses, etc. In fact, the award proceedings clearly shows that the land is not declared as excess.

9. In view of the said finding it is not open to the petitioner, who is the requisitioning authority, to question the award even with reference to the deduction of 1/3rd area on the ground that the said area is required for development. The entire area of 8413 square meters of land acquired was being used as a single block for the construction of the Exchange by the requisitioning department. Therefore, there is no need to provide any internal roads. If the internal common roads meant for so many other people are to be provided, it is only in such circumstances certain deduction is contemplated. Apart from that, it is contended by the revenue authorities that the land is situated in a developed area. Therefore, there is no need to provide any deduction towards developmental purpose.

10. Under the above circumstances there is no merit in the writ petition. But, however, it is the apprehension of the requisitioning petitioner that it may be fastened with changed liability on the ground that part of the compensation which it had already parted was paid to one of the claimants and ultimately, if it is found that the said claimant to whom it was paid is not eligible or entitled for receipt of the compensation, then the claimant who is entitled may proceed against the requisitioning department. The said apprehension is only illusory. When once the requisitioning department parted the compensation by paying it to the Land Acquisition Officer, there cannot be any further claim against the requisitioning department.

11. Another contention raised by the requisitioning authority was that in a reference made under Section-18 of the Act to the Civil Court, if the compensation is further enhanced, a further liability may be fastened on it. With reference to this apprehension, the issue is premature at this stage. It all depends upon the evidence that would be adduced before the Civil Court. If the petitioner has got any doubts as to the proceedings to be conducted before the Civil Court, as a beneficiary of the acquired land, which has to pay the compensation,

if enhanced, it can approach the Civil Court by making appropriate applications to get itself impleaded in such proceedings and contest the same. Therefore, the said apprehensions are clearly devoid of merits.

12. Under the above circumstances, the writ petition is dismissed with the above observations. No order as to costs.

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(S.ANANDA REDDY, J)

26.11.2004

DR

To

1 The Secretary, State of Andhra Pradesh,

Transport Rep. by its Secretary,
Transport, Roads and Buildings Department, Secretariat,
Hyderabad.

2 The Commissioner of Land Revenue, Government of A.P.,
Station Road, Nampalli, Hyderabad - 500 001

3 The Collector and District Magistrate, Hyderabad District,
Station Road, Nampalli,
Hyderabad-500001

4 The Special Deputy Collector, Land Acquisition(General)

Office of Collector, Hyderabad District, Station Road,

Nampalli, Hyderabad-500001

5 2 CCs to Government Pleader for Revenue, High Court

Buildings, Hyderabad. (OUT)

6 2 CD copies